



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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WATER

IN THE MATTER OF THE PETITION OF)	ORDER ADOPTING IN PART/
PARKWAY WATER COMPANY FOR AN)	MODIFYING IN PART/
INCREASE IN RATES AND CHARGES FOR)	INITIAL DECISION
WATER SERVICE)	

BPU DOCKET NO. WR05070634
OAL DOCKET NO. PUC 8422-05

(SERVICE LIST ATTACHED)

BY THE BOARD:

On July 26, 2005, Parkway Water Company (Parkway or Company), a public water utility subject to the jurisdiction of the New Jersey Board of Public Utilities (Board), and franchised to provide water service to approximately 1,800 customers in a portion of the Township of Howell, Monmouth County, filed with the Board a petition for an increase in rates and charges for water service effective for service on and after August 29, 2005. The petition was filed pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12 and requested an overall increase in rates of \$763,426 or 105.10% over pro forma present revenues. The Company subsequently updated its filing to request an increase of \$763,513 or 104.18%. The total revenue requirement requested was \$1,496,390.

For the Company's residential customer service, the proposed increase would result in an increase in rates from the current annual charge of \$352.55 to \$719.81 (from \$88.14 to \$179.95 per quarter).

The Board having reviewed the entire record to this proceeding, for the reasons discussed herein this Order below, ADOPTS in part and MODIFIES in part the Initial Decision.

PROCEDURAL HISTORY

On September 28, 2005, the Board transmitted this petition to the Office of Administrative Law (OAL) where the matter was subsequently assigned to Administrative Law Judge (ALJ) W. Todd Miller.

On August 17, 2005, the Board issued an Initial Suspension Order suspending the proposed rates to December 29, 2005. On December 21, 2005, the Board issued a second Suspension Order suspending the proposed rates to April 29, 2006.

ALJ Miller conducted a telephonic pre-hearing conference on December 14, 2005, and established the plenary hearings and discovery schedule.

On January 25, 2006, a duly noticed public hearing was held at the Howell Township Middle School South in Howell, New Jersey. Approximately 150 people were in attendance. Approximately 40 people spoke in opposition of the proposed rate increase. The record in this matter reveals that customers' are concerned with the proposed rate increase and quality of service issues.

The case was reassigned to ALJ Douglas H. Hurd, who presided over evidentiary hearings which were held on March 22 and April 3, 2006. At the hearings, witnesses were presented by the Company and the Division of the Ratepayer Advocate (RPA)¹. The RPA recommended an overall increase in rates in the amount of \$579,025 or 79.22%. Through briefs, Board Staff recommended an overall increase in rates in the amount of \$596,248 or 81.36%. Initial Briefs were submitted on May 5, 2006, with replies submitted on May 19, 2006.

On June 13, 2006, ALJ Hurd issued his Initial Decision in this matter, with exceptions to the Initial Decision filed on July 3, 2006, by the Ratepayer Advocate and Board Staff, and Replies to the Exceptions were filed on July 10, 2006 by the Ratepayer Advocate.

On July 19, 2006, the Board issued an Order of Extension, extending the 45-day statutory period for review of the ALJ's Initial Decision to September 12, 2006. On August 16, 2006, the Board issued a further Order of Extension, extending the time period for review another 45-days to October 27, 2006.

BACKGROUND

The Company's proposed rate increase was driven by the detection of high levels of naturally occurring radionuclides in seven of the eight wells used by the Company to supply water to its customers. The seven effected wells draw water from the Kirkwood-Cohansey (Cohansey) aquifer. Water samples taken between 2001 and 2002 revealed radium and/or gross alpha in all of the Cohansey wells in excess of the maximum contaminant level. Water samples taken from the Company's remaining well, located in the Englishtown aquifer did not exhibit the same excess levels of radionuclides. (Initial Decision at 2).

The Company was directed by the New Jersey Department of Environmental Protection (NJDEP) to resolve the high radionuclide levels within one year of June 18, 2003. Acting pursuant to the NJDEP directive, in May 2004, the Company began purchasing water from the Brick Township Municipal Utilities Authority (BTMUA) and New Jersey-American Water Company (NJAW) on an interim basis. (Initial Decision at 2-3).

The Company investigated the possibility of treating its Cohansey well water to comply with the NJDEP directive. The Company has two separate water treatment plants that treat water from the seven Cohansey Wells. These two treatment facilities were evaluated by the engineering firm of Hatch Mott MacDonald (Hatch Mott). The Company and Hatch Mott found the option of

¹ The Division of the Ratepayer Advocate has subsequently been made a part of the Department of the Public Advocate and is now known as the Division of Rate Counsel. In this Order, however, the Board will refer to the Division of Ratepayer Advocate as that was the name of that Office at the time the Initial Decision was issued.

treating the water to be cost prohibitive and the potential rate impact on customers too burdensome to make treatment a feasible solution to the problem. RPA witness, Howard Woods, P.E. agreed that water purchases were a far more cost effective option than treatment. (Initial Decision at 3).

The Company continued purchasing water from the BTMUA and NJAW throughout 2004. On September 26, 2005, the Company entered into a Water Sales Agreement with BTMUA to purchase all water needed to serve its customers from the BTMUA. This purchased water cost is more fully described below.

INITIAL DECISION AND DISCUSSION

In the Initial Decision, ALJ Hurd's recommended an overall increase in revenues of \$612,124 or 83.53% above current rate revenues.

Summarized below are the contested issues, along with the recommendations of the ALJ and the positions of the Parties.

A. RATE OF RETURN

1 CAPITAL STRUCTURE

Company Position

The Company proposed to utilize the actual capital structure at December 31, 2005, the end of the test year. This capital structure consisted of 72.65% equity, 23.36% debt (Co-Bank loan) and 3.99% notes payable to developers. (P-8, Schedule 8). The Company, the RPA and Board Staff all agreed to the Company's 9.03% cost rate for the Co-Bank loan, and a 0.00% cost rate for the notes payable to developers (RPA Initial Brief at 19). No agreement was reached on the cost of equity, nor capital structure.

RPA Position

RPA witness, Andrea Crane proposed a hypothetical capital structure of 50.00% equity and 50.00% debt (RT-1, page 6). Ms. Crane noted that such a hypothetical capital structure is consistent with the AUS Utility Report of February 2006 (Initial Decision at 4). The RPA adjusted the debt portion of the capital structure to include 44.36% for the Co-Bank Loan and 5.64% notes payable to developers (RPA Initial Brief at 19). RPA witness, Ms. Crane believes that the Company's proposed capital structure is too heavily weighted on equity and is therefore, inefficient. (Initial Decision at 4).

Staff Position

Board Staff argued that it was inconsistent to use the same embedded cost rate of 9.03% for the Co-Bank loan with a newly proposed hypothetical capital structure. Staff believed that the higher the leverage the higher the cost rates for both debt and equity and for this reason that to use a hypothetical capital structure, there has to be a new cost rate for the Co-Bank loan consistent with the risk associated with the proposed hypothetical capital structure.

Further, the use of the Company's actual end of year capital structure, was approved by the Board in the Company's last base rate case.

Initial Decision

The ALJ adopted the recommendation of the Board Staff in that the actual capital structure and the embedded cost rates proposed by the Company should be used (Initial Decision at 5).

RPA Exceptions to the Initial Decision

The RPA summarized Staff's position regarding the cost rate for the Co-Bank loan, and contends that Staff's argument is flawed because even accepting Staff's premise that debt costs may be higher under the hypothetical capital structure, this alone does not provide a valid reason to adopt the Company's inefficient actual capital structure (RPA Exceptions at 3). The RPA argues that most water companies simply do not have 71.00% equity in their capital structure noting that the water companies followed in the AUS Utility Report for February 2006 averaged 49.00% common equity in their capital structure, which supports Ms. Crane's recommended 50/50 capital structure. (Id).

With respect to the amount of capitalization used by the RPA, Ms. Crane used her recommended rate base of \$1,097,185 in developing her overall cost of capital (Id). Staff asserted that Ms. Crane should have used the total amount of capital as shown in the Company's original filing of \$1,459,752, instead of her recommended rate base. (Id at 4). The RPA asserts that the Staff is confused about the amount of capitalization in that any financing amounts exceeding the pro forma rate base of \$1,097,185 are immaterial to determine the appropriate overall return for the regulated assets. (Id).

Board Findings and Conclusions

The Board HEREBY ADOPTS the ALJ's recommendation which reflects Staff's position on the use of the actual capital structure and the embedded cost rates for the reasons as set forth by Staff. The RPA's recommended use of a hypothetical capital structure, while at times appropriate, appears an unnecessary complication to be used for a small water company as such is Parkway, when the actual capital structure is readily available for this Company.

2. RETURN ON EQUITY

Company Position

Company witness, David Ern, who is also the Company's President, proposed a 10.75% return on equity (P-8, Schedule 8). Mr. Ern argued that Parkway is a small closely held Class D public utility whose stock is not publicly traded, and has a history of marginal and declining earnings and now operates at a loss due to increased operating costs related to purchased water. (Initial Decision at 5).

Mr. Ern stated that at the present time, larger Class A water utilities are being allowed 9.75% on equity, and in view of Parkway's small size, lack of liquidity and financial conditions, an equity investment in Parkway is clearly attended by greater risks than a comparable investment in larger public utilities with solid earnings and a record of consistent dividends (PT-1, at 9-10).

RPA Position

Ms. Crane recommended a rate on equity of 9.12%, based on the performance of two often employed analyses: (1) Capital Asset Pricing Model (CAPM) and (2) a Discounted Cash Flow (DCF) on a proxy group of 10 water companies tracked by the AUS Utility Report. (Initial Decision at 5). Ms. Crane derived her result by assigning a 75.00% weight to the DCF estimate and a 25.00% weight to the CAPM estimate. (Id).

Staff Position

Board Staff based its analysis of the witnesses' testimonies and informed judgments and recommended a return on equity in the range of 9.50 – 10.00%, with the midpoint of 9.75% and an overall rate of return in the rate of 9.01% to 9.38%, with a midpoint of 9.19%. Staff did not agree with the Company's 10.75% rate proposal because it was not supported by evidence. Staff acknowledges that the small size of the Company may pose a risk but the lack of liquidity does not. Staff disagreed with RPA's proposed rate, and believes that the CAPM estimate is too low.

Initial Decision

The ALJ agreed with the Company's proposed 10.75% return on equity. The ALJ believed the Company made a compelling case regarding its risk factors, including its size, financial risk, limited growth potential and lack of liquidity (Initial Decision at 6). The heightened risk factor justified a greater return and the comparison to the companies that RPA witness, Ms. Crane used supports the Company's position (Initial Decision at 6). The ALJ stated that the Company is much smaller than the companies Ms. Crane used in her analysis and those companies are publicly traded and accordingly, more liquid. (Initial Decision at 6).

The ALJ stated that the Company's request for a 10.75% equity return is a judgment call, as the Company witness candidly admitted. The ALJ opined that this is a reasonable judgment and accurately reflects the heightened risk of an equity investment in the Company. The ALJ recommended that the Company's overall rate of return should be 9.92%, which includes a 10.75% return on equity. (Id).

RPA Exceptions to the Initial Decision

The RPA argued that the Company failed to present credible testimony through an expert cost of capital witness, and the ALJ ignored the expert witness of the RPA who concluded were derived from two well accepted cost of capital methodologies (RPA Exceptions at 6). The RPA contended that the Company failed to offer a single valid reason as to why it should be entitled an enhanced equity return over and above the 9.75% the Board recently afforded regulated utilities in New Jersey, as well as the Company's failure to document its beliefs that it is less risky than utilities (RPA Exceptions at 6).

The RPA observed that approximately 63% of Parkway's revenue requirement is not at risk because the Company's proposed revenue requirement is composed of taxes and purchased water costs (RPA Exceptions at 6). The RPA stated that if the Company is awarded the Purchased Water Adjustment Clause (PWAC), that the Company is requesting, the Company will be permitted to recover these costs from ratepayers on a dollar for dollar basis and will allow the Company to pass through its purchased water costs to ratepayers without the need for a full rate case. (Id at 7). The RPA asserts that Parkway has much less risk than many other water companies, since most states do not have PWAC clauses. (Id).

Staff Exceptions to the Initial Decision

Board Staff argued that there is no credible evidentiary support for the ALJ's conclusion regarding the Company's heightened risk to justify a 10.75% return on equity. (Staff Reply to Exceptions at 2). Mr. Ern admitted that no study was performed for his determination of a 10.75% return on equity. (T1: page 51 at 21-22). The ALJ merely relied on the witness's "judgment call" to support his opinion about the heightened risk factor, and offered no explanation why the ALJ accepted the Company's position at face value.

Board Findings and Conclusion

The Board HEREBY ADOPTS Staff's recommended return on equity of 9.75%. The Board deems the Initial Decision's 10.75% return on equity excessive and Company's perceived risk factor as not supported by sufficient, credible evidence. The Board notes that while the Company is a small water utility, its risk is mitigated by the use of a capital structure with a higher equity to debt ratio (73%/27%), which reduces the Company's financial risk. As pointed out by the RPA, the Company's largest expense is purchased water costs, and should a purchased water adjustment clause be granted, the risk of not recovering such a cost is minimal. Further, the Company's limited growth potential need not be a risk factor. The general notion is that a high growth implies a high risk and therefore, a higher return. As stated by the RPA, limited growth by itself is not necessarily a risk factor.

Finally, the lack of liquidity is not a risk factor to the Company. By design and by the owners' choice, the Company has been set up as a private, closely held and non-publicly traded company, which automatically precludes outside prospective investors from sharing in its ownership. Consequently, there is no natural market for any transaction activities and hence no liquidity.

The Board is not convinced that the Company has presented compelling reasons and rationales to justify its request for a higher return on equity of 10.75%. The Board deems the Staff recommendation of 9.75% to be the most appropriate at this point in time.

With this modification the Board HEREBY SETS the overall rate of return at 9.19%, this includes a 9.03% Co-Bank cost rate, a 0.00% notes payable to developers' rate, and a 9.75% equity rate.

B. RATE BASE

1 UTILITY PLANT IN SERVICE

Company Position

The Company proposed a total Utility Plant in Service balance (UPIS) in the amount of \$4,730,270. This is comprised of: (1) utility plant in service in the amount of \$4,718,270 for the test year period ended December 31, 2005, and (2) post-test year additions of \$12,000 for the post-test year period ended June 30, 2006. (P-8 Schedule P).

Mr. Ern testified that the Company has not excluded any plant from its UPIS balance on the basis that the plant is no longer used and useful. According to Mr. Ern, Well #1A, which is screened and is in the Englishtown aquifer, is still used and useful and has no radionuclide or gross alpha contamination and remains in full use at this time, along with Plant #1. (Company Initial Brief page 4). Mr. Ern also testified that the Company requested a temporary increase in its Englishtown well diversion above the annual allocation limit for calendar year 2004, but the NJDEP denied the request (2T14-5 to 15). This point is made to show that a blending is not an option with the purchased water costs.

Mr. Ern testified that the Company had shut down all its Cohansey Wells by May 2004, except Well #8, which was still in use until September 2004. Wells #5 and #8 currently meet the standards for radionuclide levels based on the most recent water quality test at each well and are available on stand-by status for emergency use and fire protection. (PT-1, p. 8).

Company witness, Carol Walczyk, P.E., an engineer with Hatch Mott testified that the Company currently purchases much of its water demand from the Brick Township MUA and its water quality now fully complies with State and Federal drinking water regulations for radionuclides (PT-2, p. 2). During cross examination Ms. Walczyk stated that the point of entry for Water Treatment Plant (WTP) #3 showed high levels of gross alpha and radium contamination above allowed MCL levels in February and March 2004. WTP #3 also showed radium contamination that nearly exceeded allowed MCL levels in August 2004. (PT-2, p. 6).

RPA Position

RPA witness, Howard Woods, P.E. of Howard Woods Associates, recommended a downward adjustment of \$980,310 from the Company's UPIS balance. This adjustment is comprised of (1) accumulated depreciation of \$254,936 plus (2) net utility plant of \$725,374. (RT-1, Schedule ACC-2). Mr. Woods testified that this adjustment reflected the removal of the Company's Cohansey Wells and the associated plant facilities that are no longer used and useful. (Company Initial Brief, p. 20). Mr. Woods stated that the Company's seven Cohansey Wells and the treatment facilities associated with those wells are no longer used and useful due to the radionuclide issue and the Company's decision to buy water from the BTMUA.

According to Mr. Woods the last time the Company used any of its Cohansey Wells was September 2004, with most of the wells were shut down in May of 2004. (Id, p. 20). The total UPIS balance recommended by the RPA is \$3,737,960. (RPA Initial Brief at 22).

Mr. Woods stated that the Company has two interconnections with the BTMUA and a third with NJAW and that each connection is individually capable of satisfying the maximum water needs of the Company's customers.

Mr. Woods believes that there is no need to retain any of the Cohansey Wells for standby or other emergency use. (Ex. RT-2, p. 14).

Company Response to RPA

In its Reply Brief, the Company stated that the arguments raised by the RPA overlook the fact that if a fire occurs in Petitioner's service area during a hot or dry summer day when the water supplies of outside purveyors are already stretched thin to meet water demands within their own systems, having wells # 5 and #8 available for public fire protection purposes is critical. In light of this, wells #5 and #8 remain used and useful and should not be removed from rate base (Company Reply Brief p. 2-3).

Staff Position

Staff agreed with the adjustments made by the RPA. High levels of radionuclides have been found in the Company's Cohansey Wells. As a result, the Company is no longer using its seven wells (#2 through #8), or the associated treatment facilities, except for Water Treatment Plant #3. Mr. Woods stated during testimony that as a result of the radionuclide issue and the Company's decision to buy water from the BTMUA, its seven Cohansey Wells and the treatment facilities associated with those wells are no longer used and useful. The Company currently has two interconnections with the BTMUA and a third with NJAW and that each connection is individually capable of satisfying the maximum water needs of the Company's customers.

Staff agreed with Mr. Woods, that the costs associated with these utility plant components should be excluded from the Company's rate base. Staff recommended a total reduction of \$725,374 to the Company's UPIS and \$254,936 to the Company's accumulated depreciation for a total reduction of \$980,310. Staff recommended a total UPIS balance of \$3,737,960.

Initial Decision

ALJ Hurd agreed with the RPA's adjustments to rate base recommended by the RPA and agreed to by Staff. The ALJ noted that the last time the Company used any of its wells was September 2004, with most of them shut down in May 2004 due to the radionuclide issue. (Initial Decision at 6). ALJ further agreed with the expert testimony of RPA witness Mr. Woods that there is no justification to maintain these wells since the Company has two interconnections with the BTMUA and a third with NJAW and that each of these connections individually is capable of satisfying the maximum water needs of the Company's customers. (Initial Decision at 6-7).

The ALJ disagreed with the Company's position that the Cohansey wells, particularly Wells #5 and 8 should be retained for standby or other emergency use. The ALJ noted that such a use will not be necessary since the Company has the three existing interconnections as stated above. (Initial Decision at 7).

Board Findings and Conclusions

The Board ACCEPTS the recommendation of the ALJ in that all of the Company's seven Cohansey Wells, and the associated pumping and treatment equipment for those wells should be removed because these facilities are no longer useful. The Board agrees with the arguments raised by the Ratepayer Advocate and agreed to by Board Staff in that there is no justification to maintain these wells since the Company has the two interconnections with the Brick Township MUA and a third with NJAW.

Having reviewed the record and the ALJ's decision, the Board ADOPTS the ALJ's recommendation that the Company's seven Cohansey Wells and the associated pumping and treatment equipment for those wells should be removed from rate base because these facilities are no longer used and useful. The Board HEREBY ACCEPTS the reduction of Utility Plant in Service in the amount of \$980,310 which is comprised of \$725,374 to the Company's UPIS and \$254,936 to the Company's accumulated depreciation reserve. The total UPIS balance is HEREBY SET at \$3,737,960

2. CONTRIBUTIONS IN AID OF CONSTRUCTION

Company Position

The Company proposed a total Contribution in Aid of Construction (CIAC) level of \$1,775,308 (P-8, Schedule P).

RPA Position

Mr. Woods recommended a disallowance of \$328,428 of CIAC from the Company's total CIAC of \$1,775,308 (RT-2, p. 15). Mr. Woods' recommendation is based upon the assumption that if the Cohansey facilities are excluded from rate base, a corresponding adjustment is necessary to eliminate any CIAC that may have financed these plant facilities. (RT-1, p. 22). Mr. Woods testified that five of the Cohansey Wells were constructed with CIAC totaling \$328,428 and that an adjustment should be made to remove this amount from Company's CIAC balance. (RT-2, p. 15).

Company Response to RPA

Mr. Ern attested that the cost of the Cohansey Wells was funded in part by CIAC to the extent of \$328,428. (Company Initial Brief, p. 17).

The Company stated that if it were determined that the Cohansey Wells should be removed from gross utility plant in calculating rate base, an offsetting adjustment to CIAC would be needed, which would mitigate the rate base impact of removing such plant. (Company Initial Brief, p. 17-18).

Staff Position

Staff agreed that because the wells and facilities associated with the Cohansey aquifer are no longer used and useful, the corresponding CIAC used to finance the construction of this plant should also be removed. Staff agreed with the RPA and recommended that a total of \$328,428 of CIAC be removed from the Company's rate base.

Initial Decision

ALJ Hurd noted in his Initial Decision, that since the wells and facilities associated with the Cohansey aquifer are no longer used and useful, these facilities should be removed from rate base, and, the corresponding CIAC used to finance their construction should also be removed from rate base (Initial Decision at 7). The RPA and Board Staff agreed that a total of \$328,428 of CIAC be removed from rate base. The ALJ also noted that the Company agreed that in the event such items are removed from rate base that there needs to be an offsetting adjustment to CIAC. The ALJ concurred with the RPA's and Staff's recommendation. (Initial Decision at 7).

Board Findings and Conclusions

The Board HEREBY ADOPTS the ALJ's recommendation and sets the amount of the CIAC at \$1,446,880 which includes the reduction of \$328,428 as set forth in the recommendation as proposed by the RPA and agreed to by Board Staff.

3 ACCUMULATED DEPRECIATION

Company Position

The Company proposed accumulated depreciation in the amount of \$945,349. (P-8, Schedule P).

RPA Position

Because the RPA recommended removal of the Cohansey Wells from the Company's rate base, RPA also removed the associated accumulated depreciation in the amount of \$254,936. (RT-2, p. 15).

Staff Position

Staff agreed with the RPA that \$254,936 of accumulated depreciation should be removed from the Company's rate base consistent with the treatment of the underlying plant.

Initial Decision

ALJ Hurd concurred with the position taken by the RPA and Board Staff. Like with the CIAC, the removal of the Cohansey Wells and the related facilities justified a removal of accumulated depreciation from the Company's rate base. (Initial Decision at 7). The ALJ agreed with the RPA and Board Staff that \$254,936 in accumulated depreciation should be eliminated from the Company's depreciation reserve.

Board Findings and Conclusions

The Board HEREBY ADOPTS the recommendations of the ALJ which adopted the DPA and Board Staff's position, and sets the accumulated depreciation reserve balance at \$690,413. This is computed by taking the Company's proposed accumulated depreciation reserve balance of \$945,349 and reducing it by \$254,936.

4. POST-TEST YEAR ADDITIONS

Company Position

The Company proposed a \$12,000 adjustment in post-test year additions which was comprised of \$4,000 for service lines, \$5,000 for meters and \$3,000 for hydrants (P-6, Schedule Q). Mr. Ern testified that these post-test year additions should be placed in service by June 30, 2006 (2T58-11).

RPA Position

RPA witness, Ms. Andrea Crane, recommended removal of the Company's post-test year plant additions of \$12,000 mainly because these post-test year additions have not been supported by testimony or other sufficient credible documentation. Ms. Crane further asserts that the Company's post-test year additions are speculative and do not reflect known and measurable changes to the actual test year results. (RT-1, p. 21).

Staff Position

Staff recommended including the \$12,000 in post-test year additions.

Staff addressed the RPA's concerns with respect to the speculative nature of the post-test year additions by requiring the Company to submit an affidavit from an officer of the Company confirming the in-service date for each project and their costs. The affidavit should have been filed with the Board Staff and the RPA within 30 days of the in-service date of each project. Failure by the Company to timely file the affidavit and cost confirmation shall result in a presumption that the projects were not in service within the time allowed for the post-test year additions.

The Company has not provided any documentation or affidavit to ascertain or confirm the in-service dates for each of the projects and their costs, subsequent to the ALJ's filing of his Initial Decision. Therefore, based upon the absence of such supporting documentation, Staff, therefore, recommends that the Board disallow the post-test year additions and agrees with the RPA that the Company has not met its burden of proof.

Initial Decision

ALJ Hurd adopted the Company and Staff's position citing reasonableness and consistency with the known and measurable standard. ALJ Hurd also agreed with Staff's recommendation that the Company provide an affidavit as suggested in Staff's position. (Initial Decision at 8).

RPA Exceptions to the Initial Decision

The RPA noted in its Exceptions to the Initial Decision that the ALJ erred in recommending that the Company's request for \$12,000 in post-test year additions be allowed in the rate base. (RPA Exceptions to the Initial Decision at 11). According to the RPA, the post-test year additions failed to satisfy the criteria set for in Elizabethtown Order dated May 23, 1985. The RPA argues that the Board has only allowed the inclusion of post-test year expenditures in the rate base when the petitioner has shown that the post-test year adjustments are "known and measurable." (RPA Exceptions at 11). The RPA contends that no proof was offered by the Company supporting its post-test year additions as having met the "known and measurable" standard prescribed by the Board. (RPA Exceptions at 12). The RPA observed that during the evidentiary hearings, Mr. Ern admitted that the requested additions were routine items, such as meters and service lines that every utility incurs as part of their normal operations. (RPA Exceptions at 13). As noted by the RPA, these items are simply not "major in nature" as required under *Elizabethtown Water*. (RPA Exceptions at 13).

The RPA argues that the Elizabethtown Water case does not grant a utility the unfettered discretion to include any and all capital expenditures for a six month period beyond the chosen test year. (RPA Exceptions at 13).

Board Findings and Conclusions

The Board HEREBY ADOPTS the RPAs recommendation with respect to the omission of the post-test year additions of \$12,000. The Board agrees with the arguments that the RPA proposed with respect to the standards as outlined in the Elizabethtown Water case. The Board defined the "known and measurable" standard in its Elizabethtown Water Company Board Order dated May 23, 1985 in Docket No. WR85040330.

Known and measurable changes to the test year must be (1) prudent and major in nature and consequence, (2) carefully quantified through proofs which (3) manifest convincingly reliable data. The Board recognizes that known and measurable changes to the test year, by definition, reflect future contingencies; but in order to prevail, petitioner must quantify such adjustments by reliable forecasting techniques reflected in the record. In Re: New Jersey Bell Telephone Co., Docket No. 7711-1136 dated January 31, 1978. The Board's power to recognize adjustments beyond the test year is well settled, so long as its judgment is grounded on sufficient relevant evidence. State vs. New Jersey Bell, 30 N.J. 16 (959) at 29.

The post-test year additions of the type and extent proposed by the Company are common and routine in nature, and not major in nature and consequence. Furthermore, the Company has not provided any supporting credible documentation to ascertain or confirm the in-service dates or the costs for these plant additions, and absent such critical information these additions must be disallowed.

The Board HEREBY REJECTS the arguments of the Company and the recommendation of the Staff and ALJ and disallows the post-test year additions of \$12,000.

5. WORKING CAPITAL ALLOWANCE

Company Position

The Company sought a working capital allowance (WCA) of \$191,932 based upon 1/5 of its operating and maintenance expenses (O&M). (Company Initial Brief p. 18). Company witness, Mr. Ern acknowledged that the Board more commonly uses a 1/8 formula for determining WCA, but pointed out that because the Company collects revenues from customers quarterly and pays its water purchase costs and other expenses monthly that a somewhat higher WCA is more appropriate. (Company Initial Brief p. 18).

RPA Position

The RPA recommended that the Company's WCA requirement be denied because: (1) the 1/5 method proposed by the Company is problematic because it always results in a positive cash working capital requirement regardless of the actual patterns for receipt of revenues and disbursement of expenses (RPA Initial Brief p. 25) and, (2) that the Company has not performed a lead/lag study to accurately measure its needed cash working capital. (RPA Initial Brief p. 25).

Ms. Crane, noted that although formal, detailed lead/lag studies can be expensive, a sampling technique of certain expenses can produce useful data and by limiting the study to an examination of significant expense items and then taking samples of the data, the complexity and expense of a lead/lag study can be minimized. (T1: at 95-17 to 96-1).

Staff Position

Staff recommended that the use of a 1/8 formula to compute a WCA of \$118,005 be allowed. Staff cited that in prior Board Orders in which the Board has not directed a company to prepare and submit a lead/lag study, the use of a 1/8 formula was approved. Staff also stated that because lead/lag studies can be burdensome in both time and costs on small water companies the Board has eschewed formal lead/lag studies and has adopted the 1/8 method, to determine cash working capital needs. The Company has not persuasively demonstrated the need to deviate from the Board's approved 1/8 method.

Initial Decision

ALJ Hurd adopted the Staff's recommendation that a 1/8 formula is a reasonable method for computing a working capital allowance. (Initial Decision at 9). ALJ Hurd reiterated Staff's reasons as noted above and concluded that the Company has not demonstrated a need for a 1/5 formula.

RPA Exceptions to the Initial Decision

The RPA believes that the Company's claimed for cash working capital be denied as it had no discernable relationship to any feasible cash working capital requirement. (RPA Exceptions at 9). The RPA asserted that the ALJ erred in recommending a $1/8^{\text{th}}$ allowance given that the Company which bears the burden of proof, submitted no evidence in support of such allowance and accordingly, the Board should deny the Company's cash working capital claim. (RPA Exception at 9). The RPA stated that the Company's $1/5^{\text{th}}$ method has no relation to any cash working capital requirement, if any exists. (RPA Exceptions at 9). The RPA reiterated its argument that the $1/5^{\text{th}}$ method is a disconnect attributed to the fact that it always results in a positive cash working capital requirement regardless of when the Company's receipt of revenues and payments of expenses actually occurs. (RPA Exceptions at 9).

If the Board determines the Company to have a cash working capital requirement, the RPA suggested that the requirement at most should be $1/12^{\text{th}}$. (RPA Exceptions at 10).

Company Reply to the Exceptions to the Initial Decision

The Company in its Reply to Exceptions acknowledged that the $1/8^{\text{th}}$ formula proposed by the Staff and recommended by the ALJ in his Initial Decision is consistent with long-standing Board policy. (Company Reply to Exceptions at 3).

Board Findings and Conclusions

Having reviewed the record and the ALJ's Initial Decision the Board HEREBY ADOPTS the RPA's recommendation that it is inappropriate to utilize the $1/8$ method of O&M formula for computing a working capital allowance. The Board accepts the arguments of the RPA in that the Company could have used a sampling technique of certain expenses to produce data to determine whether a working capital allowance is required. The Board HEREBY APPROVES RPA's recommendation and DENIES the inclusion of any working capital allowance in rate base.

C. OPERATING INCOME

1 PRO FORMA REVENUES

Company Position

The Company calculated total pro forma present revenues (post-test year) to be \$732,855. (Exhibit P-8, Schedule F). The Company determined this amount by computing total customer consumption in thousand gallons and multiplying this by the current rate per thousand gallons. The Company then added the number of customer connections for General Metered Service, Public and Private Fire Service and Miscellaneous Service Revenues to the consumption revenues and multiplied these services by the present fixed service charges. (P-8, Schedule V).

RPA Position

Ms. Crane eliminated post-test year customer growth, because she eliminated post-test year utility plant from rate base. Ms. Crane used the number of actual customers as of December 31, 2005 (RT-1, p. 25) and recommended total pro forma present rate revenue of \$730,855.

Staff Position

Staff recommended the revenues associated with its post-test year plant additions in the amount of \$2,000 for total pro-forma revenues of \$732,855.

Initial Decision

The ALJ did not specifically address Pro Forma Revenues in his Initial Decision.

Board Findings and Conclusions

The Board HEREBY ADOPTS the recommendation of the RPA and sets a level of revenues at \$730,855. In disallowing the post test year additions, the revenues associated with the post test year additions is also disallowed. The Board agrees with the RPA that the revenues associated with the test year period should be consistent with the utility plant in service as of the same date, which is December 31, 2005.

2. RATE CASE COSTS

Company Position

The Company requested \$75,000 related to rate case expenses amortized over a three-year period. (Initial Decision at 9). Mr. Ern testified that the rate case expenses at the conclusion of this matter may exceed \$90,000. (Company Reply Brief at 4). While not agreeing to a 50-50 sharing of rate case expenses, the Company acknowledged that if rate case costs reached or exceeded \$90,000, a four year amortization period recommended by Staff would result in rate case expenses of \$11,250 per year ($\$90,000 / 4$ years and shared 50-50). (Company Reply Brief at 4).

RPA Position

The RPA did not dispute the Company's \$75,000 request for rate case expenses. The RPA also did not dispute the Company's proposed three year amortization period. The RPA recommended, however, that these projected rate case expenses be shared 50-50 by shareholders and ratepayers. This approach was considered by the RPA as equitable and consistent with Board Policy. (RPA Initial Brief at 27).

Staff Position

Staff recommended a total rate case expense of \$75,000, amortized over a four year period and shared 50-50 for a total annual cost of \$9,375. Staff's reasoning for the 50-50 sharing is consistent with past Board actions as in I/M/O Pennsgrove Water Supply Company for an Increase in Rates, BPU Docket No. WR98030147 (June 30, 1999) and I/M/O Environmental Disposal Corp. for an Increase in Rates, BPU Docket No. WR99040249 (June 7, 2000).

Staff notes that a base rate filing is initiated by a utility and is driven by a desire to obtain an increase in rates. While a rate increase benefits ratepayers through the continuation by the utility of safe, adequate and proper service, it also benefits the utility's shareholders.

Initial Decision

The ALJ reviewed the positions of the Parties, and concurred with the RPA and the Staff that a 50-50 sharing between ratepayers and shareholders is appropriate and consistent with Board Policy. The ALJ agreed with Staff that a four year amortization period is appropriate since the Company's last rate increase was approved in May 1998 and the Company filed the present petition primarily to recover purchased water costs. (Initial Decision at 9). The ALJ also agreed with the Company, however and permitted submission of actual rate case costs at the conclusion of the hearing. (Initial Decision at 9).

Company Reply to Initial Decision

Subsequent to the issuance of the Initial Decision, the Company submitted a Certification dated June 26, 2006, to reflect the Company's actual rate case expenses to date. Company President, David Ern, certified that the total rate case expenses in this matter amounted to \$91,792.15.

RPA Response to Initial Decision

By letter dated June 29, 2006, the RPA submitted a letter to the Secretary of the Board opposing the Company's claim of its revised rate case costs of \$91,792.15. The RPA stated that the Company sought to recover rate case expenses of \$75,000 as contained in its original filing. The RPA argued that when a Company develops a base rate filing, there is a presumption of estimated rate case costs based on a fully litigated case. The RPA stated that the evidentiary hearings in this case have been closed since May 19, 2006, which was the date of the filing of the post-hearing reply briefs. The ALJ issued his Initial Decision on June 13, 2006. The Company's attempt to now increase its rate case expense beyond \$75,000 is deemed inappropriate and untimely.

Board Findings and Conclusions

The Board HEREBY ADOPTS the ALJ's recommendation that rate case expenses should be shared 50-50 between ratepayers and shareholders and the ALJ's recommendation to amortize

the rate case expenses over a four year period. The Board recognizes that a rate case benefits both ratepayers and shareholders and, absent any special circumstances, sharing of these expenses is appropriate and consistent with prior Board Orders, as set forth in Staff's position above. The Board HEREBY REJECTS the ALJ's recommendation that the Company be required to submit its actual rate case expenses and HEREBY ADOPTS the RPA's recommendation with respect to setting rate case expenses at \$75,000. The Board also agrees that when a Company develops a base rate filing, there is a presumption of estimating rate case costs based on a fully litigated case. The Board HEREBY SETS the rate case expenses at \$9,375 on an annual basis reflecting an amortization over a four-year period and a sharing of rate case costs 50-50 between ratepayers and shareholders.

3. PURCHASED WATER COSTS

Company Position

The Company proposed additional purchased water costs of \$626,400 which represents the annual additional purchased water expense pursuant to the Water Sales Agreement (WSA) signed by the Company and the BTMUA on September 26, 2005 (1T33-7) (PT-1A).

The WSA initially charged the Company \$3.48 per thousand gallons of water purchased. As of April 1, 2006, however, the BTMUA instituted a new charge of \$3.64 per thousand gallons of water (\$655,200 per year) purchased and this rate applies regardless of the quantity of water supplied to the Company, with no surcharge or penalty for any increase in water purchases by the Company to meet peak or other similar demands in its system. (PT-1E, PT-1, p. 5).

The Company's water supply has traditionally been derived from seven wells in the Kirkwood-Cohansey aquifer and one well in the Englishtown aquifer, however, water samples taken in accordance with the NJDEP requirements in 2001 and 2002 revealed radium 224 and/or gross alpha, naturally occurring substances, in certain Cohansey wells in excess of the Maximum Contaminant Level (MCL) established by the Federal Safe Drinking Water Act (PT-1, p. 3-4). Prior to 2001, except for sampling tests of the Company's Well #7, water sampling tests performed at Parkway's remaining distribution system by the NJDEP indicated levels below MCLs (PT-2, p. 7 of Hatch Mott MacDonald's Radium Compliance Report (Report).

On June 18, 2003, the NJDEP issued a notice of violation directing the Company to resolve the violation within one year and further stated that actions which may be considered to resolve the violations may include but are not limited to the installation of appropriate treatment, removing the affected sources of supply from service and/or using alternative sources of supply. (PT-1, p. 3-4).

The Company notified the public in July 2003, discontinued the use of all affected wells and obtained alternate water supplies by beginning to purchase water from the NJAW and the BTMUA. The Company also began investigating the possibility of constructing centralized treatment plants to address its water quality issue. (PT-2, Report p. 11).

In addition to meeting the requirements of the NJDEP notice of noncompliance, the Company conducted additional investigations to attempt to resolve the radionuclide issue. Such

investigations included (1) the conducting of extensive investigative sampling of raw water supplies, and points of entry and distribution system, in addition to the sampling required by the NJDEP; (2) gradually shutting down wells to attempt to isolate the affected wells and bring radionuclide levels below the MCLs; and (3) pilot testing a radium removal treatment system (PT-2, Report p. 11).

After a thorough review, and with assistance from its engineering firm, Hatch Mott MacDonald, (Hatch Mott) the Company found treatment too expensive and the potential rate impact on customers too high. (PT-1, p. 4). The Company continued purchasing water from NJAW and the BTMUA throughout 2004. By letter dated April 25, 2005, NJDEP confirmed that that as of June 2004, the Company had returned to full compliance with applicable radionuclide standards.

RPA Position

RPA witness, Mr. Woods acknowledged that the Company acted prudently in entering into a contract to buy water from the BTMUA, and in his opinion, this was the lowest cost alternative to achieving compliance with the radionuclide standards. (2T109-15 to 24).

Mr. Woods agreed with the Company that the WSA between the BTMUA and the Company was prudent. The Company solicited proposals from NJAW, as well as, BTMUA to provide adequate supplies of treated water on a continuing basis. NJAW's proposal to supply water would have resulted in a lower cost for purchased water than the competing proposal received from BTMUA, however, there were unacceptable conditions on the offer made by NJAW. (RPA Initial Brief at 4). NJAW was unable to obtain NJDEP approval to increase diversion or substitute division to meet the Company's needs.

NJAW was therefore, unable to commit to supply the Company any water in the summer months which would have forced the Company to provide radionuclide treatment capacity or to secure other sources to meet peak demand. (RPA Initial Brief at 4). As a result of NJAW's conditional offer, the RPA agreed with the Company's decision to reject this alternative. (RPA Initial Decision at 4).

Mr. Woods also testified regarding the Company's investigation on the possibility of treating its Cohansey well water via the construction of a new facility, since the Company's engineering firm Hatch Mott concluded that the existing treatment facility was too small to accommodate both manganese and radium removal processes which would be needed to be provided to comply with the NJDEP mandate. (RPA Initial Brief at 5).

Mr. Woods testified that the construction costs estimated by Hatch Mott were significantly more costly than purchasing water from BTMUA. (RPA Initial Brief at 7). Mr. Woods calculated the capital and operating costs presented by Hatch Mott and computed an annual cost of \$1,009,000. This was based upon total capitalized costs of \$6,576,400 to construct the plants. (RPA Initial Brief at 7). This would have yielded an average cost per customer of \$537.32 per year, as compared to the cost of purchasing water (180 million gallons per year) of \$626,400 for an average cost per customer of \$333.72 per year. (RPA Initial Brief at 7).

Staff Position

Staff agreed that in purchasing water from the BTMUA, the Company chose the lowest-cost option to address the radionuclide issue, and has the lowest-cost impact on ratepayers. Staff recommended purchased water costs of \$655,200, which included the additional increase that the BTMUA imposed upon the Company effective April 1, 2006. Staff also agreed with the Company and Mr. Woods that the capital costs to construct a treatment facility would be too burdensome on the Company's customers and an unfeasible solution to the radionuclide problem.

Initial Decision

The ALJ agreed with the Company and with the testimony of the RPA witness in that purchasing water from the BTMUA was more prudent and cost-effective than blending water and/or treating the contaminated water. (Initial Decision at 3). The ALJ concluded that the Company acted appropriately and in the ratepayer's interest in purchasing water from the BTMUA to address the radionuclide problem. (Initial Decision at 4).

Board Findings and Conclusions

The Board specifically takes no position as to whether purchasing water from the BTMUA was, or is the least cost option. As such, the Board ORDERS the Company to investigate options on both the demand side and the supply side to reduce water costs. The Board DIRECTS the Company to file a Phase II proceeding within one year from the effective date of this Order to address its investigated proposals.

The Board HEREBY APPROVES the ALJ's recommendation of \$655,200 as the proper level for the purchased water costs.

4. DEPRECIATION EXPENSE

Company Position

The Company proposed a depreciation expense amount of \$63,348. (P-8, Schedule F, p. 1) This amount included the Utility Plant in Service that the Company believes is used and useful for its operations, as well as depreciation expense on post-test year plant additions in the amount of \$240. (Ibid).

RPA Position

RPA witness, Ms. Crane recommended: (1) eliminating depreciation expense related to the Cohansey wells and other facilities that the RPA eliminated from rate base because this plant is no longer used and useful and; (2) excluding post-test year plant additions, which requires a corresponding exclusion of depreciation expense on these addition. (RT-1 p. 29). Ms. Crane's total reduction of depreciation expense is \$21,917 and a total allowable depreciation expense of \$41,431. (RT-1, ACC-25).

Staff Position

Staff agreed with the RPA recommendation to eliminate depreciation expense related to the Cohansey wells and other facilities that the RPA eliminated from rate base. Staff recommended allowance on depreciation on the post-test year plant additions in the amount of \$240, consistent with Staff's inclusion of post-test year plant additions in rate base, and the corresponding revenues associated with those post-test year plant additions.

Staff recommended a level of depreciation expense in the amount of \$41,671

Initial Decision

The ALJ did not specifically address depreciation expense in his Initial Decision.

Board Findings and Conclusions

The Board HEREBY ADOPTS the recommendation of the RPA with respect to the elimination of depreciation expense associated with plant related to the Cohansey wells and other facilities that is not used and useful. The Board HEREBY ADOPTS the recommendation of the RPA with respect to the level of depreciation expense related to post-test year plant additions. The Board believes that the depreciation expense associated with the post-test year period should be eliminated which is consistent with the removal of the post-test year additions as of the same date. The depreciation expense level is set at \$41,431.

5. MISCELLANEOUS ADJUSTMENTS

Other operating expenses such as Taxes Other Than Income Taxes, Federal Income Tax and Interest Synchronization are not disputed by the Company, the RPA or Board Staff.

Initial Decision

The ALJ did not address non-disputed areas of the rate case and incorporated these non-disputed areas into his Initial Decision as the Company has satisfied its burden of proof (Initial Decision at 10).

6. TARIFF DESIGN

The Company proposed, and the RPA and Board Staff recommended that any revenue requirement increase should be allocated across the board to all classes of customers and by equal percentages.

Initial Decision

The ALJ did not address tariff design, a non-disputed area of the rate case and has incorporated this non-disputed area into his Initial Decision. (Initial Decision at 10).

Board Findings and Conclusions

The Board HEREBY ADOPTS the proposal of the Company, and the recommendation of the RPA and Board Staff that the increase in rates be allocated among all classes of customer in equal percentages.

SUMMARY OF FINDINGS AND CONCLUSIONS

The following is a summary of Board directives contained herein:

- a) The Board ADOPTS the capital structure as recommended by the ALJ which comprise of 72.65% equity, 23.36% debt in the form of a Co-bank loan and 3.99% notes payable to developers.
- b) The Board ADOPTS the Staff's recommendation on the return on equity at 9.75%.
- c) The Board ADOPTS an overall rate of return of 9.19%.
- d) The Board ADOPTS the ALJ's recommendation that the Company's seven Cohansey wells and the associated pumping and treatment equipment for those wells should be removed from rate base since these facilities are no longer used and useful. The Board ACCEPTS the reduction of UPIS in the amount of \$980,310 which is comprised of \$725,374 to the Company's UPIS and \$254,936 to the Company's accumulated depreciation reserve. The Board sets the UPIS balance at \$3,737,960.
- e) The Board ADOPTS the ALJ's recommendation and sets the amount of the CIAC at \$1,446,880 which includes a reduction of \$328,428.
- f) The Board ADOPTS the ALJ's recommendation and sets the accumulated depreciation reserve balance at \$690,413 which includes a reduction of \$254,936.
- g) The Board ADOPTS the RPA's recommendation to exclude post-test year additions of \$12,000 in UPIS.
- h) The Board ADOPTS the RPA's recommendation to exclude a working capital allowance.
- i) The Board ADOPTS the RPA's recommendation to accept pro forma revenues in the amount of \$730,855.
- j) The Board ADOPTS the ALJ's recommendation that a 50-50 sharing of rate case expenses is appropriate over a four year amortization period. The Board ADOPTS the Staffs and the RPA's rate case expense level of \$75,000 for a total amortized rate case expense annual level of \$9,375.

PARKWAY WATER COMPANY
DOCKET NO. WR05070634
REVENUE REQUIREMENT CALCULATION

	<u>Company Proforma Position</u>	<u>RPA Position</u>	<u>Staff Position</u>	<u>Initial Decision</u>	<u>Board Decision</u>
1. Pro Forma Rate Base	\$ 1,703,063	\$ 1,102,185	\$ 1,232,190	\$ 1,232,452	\$ 1,102,185
2. Rate of Return	9.92%	8.56%	9.19%	9.92%	9.19%
3. Income Requirement	<u>\$ 168,944</u>	<u>\$ 94,354</u>	<u>\$ 113,273</u>	<u>\$ 122,259</u>	<u>\$ 101,321</u>
4. Utility Operating Income @ Present Rates	\$ (416,544)	\$ (233,319)	\$ (224,258)	\$ (224,258)	\$ (225,420)
5. Utility Operating Income Deficiency	\$ 585,488	\$ 327,673	\$ 337,531	\$ 346,518	\$ 326,742
6. Revenue Conversion Factor	<u>1.3041</u>	<u>1.7665</u>	<u>1.7665</u>	<u>1.7665</u>	<u>1.7665</u>
7. Revenue Requirement Deficiency	<u>\$ 763,535</u>	<u>\$ 578,834</u>	<u>\$ 596,249</u>	<u>\$ 612,124</u>	<u>\$ 577,189</u>
8. Present Revenues	\$ 732,855	\$ 730,855	\$ 732,855	732,855	730,855
9. Proposed Revenues	\$ 1,496,390	\$ 1,309,871	\$ 1,329,104	1,344,979	\$ 1,308,044
10. Percentage Increase	<u>104.19%</u>	<u>79.20%</u>	<u>81.36%</u>	<u>83.53%</u>	<u>78.97%</u>

**PARKWAY WATER COMPANY
DOCKET NO. WR03121016
RATE OF RETURN**

<u>PARKWAY WATER COMPANY:</u>	<u>Ratios</u>	<u>Cost Rate</u>	<u>Weighted Cost Rate</u>
CO-Bank	23.36%	9.03%	
Notes Payable/Developers	3.99%	0.00%	0.00%
Common Equity	<u>72.65%</u>	<u>10.75%</u>	<u>7.81%</u>
Total Cost of Capital	<u>100.00%</u>		<u>9.92%</u>

RPA RECOMMENDATION:

Long Term Debt	50%	9.03%	
Notes Payable Developers	5.64%	0.00%	0.00%
Common Equity	<u>44%</u>	<u>9.12%</u>	<u>4.05%</u>
Total Cost of Capital	<u>100.00%</u>		<u>8.56%</u>

STAFF RECOMMENDATION:

CO-Bank	23.36%	9.03%	
Notes Payable/Developers	3.99%	0.00%	0.00%
Common Equity	<u>72.65%</u>	<u>9.75%</u>	<u>7.08%</u>
Total Cost of Capital	<u>100.00%</u>		<u>9.19%</u>

INITIAL DECISION:

Co-Bank	23.36%	9.03%	
Notes Payable Developers	3.99%	0.00%	
Common Equity	<u>72.65%</u>	<u>10.75%</u>	<u>7.81%</u>
Total Cost of Capital	<u>100.00%</u>		<u>9.92%</u>

BOARD DECISION :

Co-Bank	23.36%	9.03%	
Notes Payable Developers	3.99%	0.00%	0.00%
Common Equity	<u>72.65%</u>	<u>9.75%</u>	<u>7.08%</u>
Total Cost of Capital	<u>100.00%</u>		<u>9.19%</u>

- k) The Board specifically takes no position as to whether purchasing water from the BTMUA was, or is the least cost option. As such, the Board ORDERS the Company to investigate options on both the demand side and the supply side to reduce water costs, and take into consideration, but not limited to, the implementation of an odd/even watering tariff structure, a indoor/outdoor tariff structure and a seasonal tariff structure. The Board DIRECTS the Company to file a Phase II proceeding within one year from the effective date of this Order to present the results of its investigation or review by the parties to this proceeding.

The Board APPROVES the ALJ's recommendation of \$655,200 as the proper level for the purchased water costs.

- l) The Board ADOPTS the ALJ's recommendation to eliminate depreciation expense associated with plant related to the Cohansey wells and other facilities that is not used and useful in the amount of \$21,917. The Board ADOPTS the RPA's recommendation to exclude the amount of \$240 of depreciation expense consistent with the exclusion of the test year additions in rate base. The Board sets depreciation expense at \$41,431.
- m) The Board APPROVES the proposal that the appropriate rate design in this matter shall be the same percentage increase, across the board, for all class of customers.

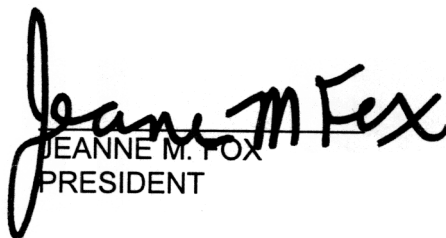
As a result of the Board's recommendation in this matter, a residential water customer (using 80,000 gallons of water per year) will experience an increase from \$291.52 per year (\$72.88 per quarter) to \$521.73 per year (\$130.43 per quarter). This represents an annual increase of \$230.21 or 78.97% per year (\$57.55 per quarter).

Based upon the foregoing, the Board HEREBY APPROVES an overall increase in the amount of \$577,189 or 78.97%.

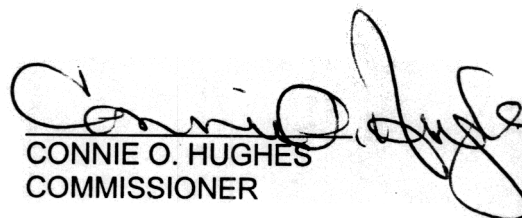
The Company is HEREBY DIRECTED to file a revised tariff conforming to the terms and conditions of this Order within 15 days from the effective date of this Order. The effective date of this Order is as dated below. The attached schedules provide the calculations supporting these rates. The Company is FURTHER DIRECTED to investigate options on both the demand side and on the supply side and file a Phase II proceeding to address these investigated proposals as discussed herein.

DATED: 9/14/06

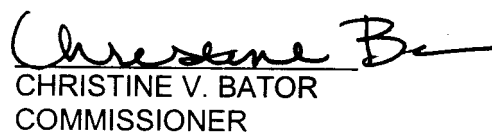
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

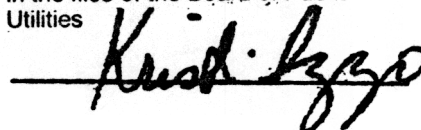

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



I/M/O the Petition of Parkway Water Company
For an Increase in Rates and Charges
For Water Service
BPU Docket No. WR05070634
OAL Docket No. PUC 8422-05

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**PARKWAY WATER COMPANY
DOCKET NO. WR05070634
RATE BASE**

	<u>Company Position</u>	<u>RPA Position</u>	<u>Staff Position</u>	<u>Initial Decision</u>	<u>Board Decision</u>
Utility Plant in Service	\$ 4,718,270	\$ 3,737,960	\$ 3,737,960	\$ 3,737,960	\$ 3,737,960
Post Test Year Additions	\$ 12,000	\$	\$ 12,000	\$ 12,000	\$
Accumulated Depreciation	\$ (945,349)	\$ (690,413)	\$ (690,413)	\$ (690,413)	\$ (690,413)
Elimination of Internal Prod. Assets	\$	\$	\$		
Net Utility Plant	<u>\$ 3,784,921</u>	<u>\$ 3,047,547</u>	<u>\$ 3,059,547</u>	<u>\$ 3,059,547</u>	<u>\$ 3,047,547</u>
Contributions in Aid of Construction	\$ (1,775,308)	\$ (1,446,880)	\$ (1,446,880)	\$ (1,446,880)	\$ (1,446,880)
Customer Advances for Construction	\$ (504,586)	\$ (504,586)	\$ (504,586)	\$ (504,586)	\$ (504,586)
Prepayments	\$ 6,104	\$ 6,104	\$ 6,104	\$ 6,104	\$ 6,104
Working Capital Allowance	\$ 191,932	\$	\$ 118,005	\$ 118,267	\$
Net Utility Plant	<u>\$ 1,703,063</u>	<u>\$ 1,102,185</u>	<u>\$ 1,232,190</u>	<u>\$ 1,232,452</u>	<u>\$ 1,102,185</u>

**PARKWAY WATER COMPANY
PROFORMA STATEMENT OF REVENUE & EXPENSES
DOCKET NO. WR05070634**

<u>UTILITY OPERATING INCOME</u>	<u>TEST YEAR 2005</u>	<u>UNDER PRESENT RATES ADJUSTMENT</u>	<u>PROFORMA</u>	<u>Pro Forma Proposed Rates</u>	<u>RPA Position</u>	<u>STAFF Position</u>	<u>Initial Decision</u>	<u>Board Decision</u>
Operating Revenues	\$ 730,855	\$ 2,000	\$ 732,855	\$ 1,496,390	730,855	732,855	732,855	\$ 730,855
Interest Income	\$ 4,008		\$ 4,008	\$ 4,008	4,008	4,008	4,008	\$ 4,008
Total	\$ 734,863	\$ 2,000	\$ 736,863	\$ 1,500,398	\$ 734,863	736,863	\$ 736,863	\$ 734,863
<u>OPERATIONS EXPENSES</u>								
Operation and Maintenance Expense	\$ 930,861	\$ (14,630)	\$ 959,661	\$ 959,661	\$ 947,161	\$ 944,036	\$ 946,135	\$ 944,036
Depreciation Expense	\$ 63,108	\$ (26,404)	\$ 63,348	\$ 63,348	\$ 41,431	\$ 41,671	\$ 41,671	\$ 41,431
Taxes-Other than Income	\$ 126,390	\$ (3,838)	\$ 126,390	\$ 235,516	\$ 122,552	\$ 104,285	\$ 104,285	\$ 104,285
Total	\$ 1,120,359	\$ (44,872)	\$ 1,149,399	\$ 1,258,525	\$ 1,111,144	\$ 1,089,992	\$ 1,092,091	\$ 1,089,752
Taxable Income Before Interest Expense	\$ (385,496)	\$ 46,872	\$ (412,536)	\$ 241,873	\$ (376,281)	\$ (353,129)	\$ (355,228)	\$ (354,889)
Interest Expense	\$ 39,200	\$ 15,710	\$ 39,200	\$ 43,948	\$ 44,198	\$ 25,902	\$ 25,902	\$ 25,902
Taxable Income	\$ (424,696)	\$ 31,162	\$ (451,736)	\$ 197,925	\$ (420,479)	\$ (379,031)	\$ (381,130)	\$ (380,791)
Income Taxes @ 34.00%		\$	\$	\$ 68,897	\$ (142,963)	\$ (128,871)	\$ (129,584)	\$ (129,469)
Operating Income	\$ (385,496)	\$ 177,435	\$ (412,536)	\$ 172,976	\$ (233,318)	\$ (224,258)	\$ (225,644)	\$ (225,420)

<u>METER SIZE</u>	<u>PRESENT TARIFF RATE (QUARTERLY)</u>	<u>PROPOSED RATES</u>	<u>% TO INCREASE</u>
<u>GENERAL METERED SERVICES</u>			
5/8"	\$22.02	\$39.41	78.97%
3/4"	\$33.02	\$59.10	78.97%
1"	\$55.04	\$98.51	78.97%
1 1/2"	\$110.08	\$197.01	78.97%
2"	\$176.13	\$315.22	78.97%
3"	\$330.25	\$591.05	78.97%
4'	\$550.53	\$985.28	78.97%
5"	\$825.62	\$1,477.61	78.97%
6"	\$1,100.83	\$1,970.16	78.97%
8"	\$1,761.32	\$3,152.23	78.97%
<u>PRIVATE FIRE SERVICE</u>			
4"	\$67.32	\$120.48	78.97%
6"	\$143.62	\$257.04	78.97%
8"	\$215.42	\$385.54	78.97%
<u>PUBLIC FIRE SERVICE</u>			
HYDRANTS	\$17.18	\$30.75	78.97%
INCH FOOT	\$0.03890	\$0.070	78.97%
CONSUMPTION	2.543	\$4.551	78.97%

<u>METER SIZE</u>	<u>QUANTITY</u>	<u>PRESENT TARIFF RATE (QUARTERLY)</u>	<u>ANNUAL FIXED REVENUES</u>	<u>PROPOSED CONSUMPTION REVENUES (lg)</u>	<u>PROPOSED TARI RATE (QUARTER)</u>	<u>ANNUAL FIXED REVENUES</u>
<u>GENERAL METERED SERVICES</u>						
5/8"	1714	\$22.02	\$150,969.00		39.41	\$ 270,189.43
3/4"	159	\$33.02	\$21,001.00		59.10	\$ 37,584.99
1"	0	\$55.04	\$0.00		98.51	
1 1/2"	0	\$110.08	\$0.00		197.01	
2"	1	\$176.13	\$705.00		315.22	\$ 1,260.88
3"	0	\$330.25	\$0.00		591.05	
4"	2	\$550.53	\$4,404.00		985.28	\$ 7,882.27
5"	0	\$825.62	\$0.00		1,477.61	
6"	0	\$1,100.83	\$0.00		1,970.16	
8"	0	\$1,761.32	\$0.00		3,152.23	
TOTAL FIXED SERVICE REVENUE			\$177,079.00			\$ 316,917.57
<u>PRIVATE FIRE SERVICE</u>						
4"	0	\$67.32	\$0.00			
6"	1	\$143.62	\$574.00		257.04	\$ 1,028.15
8"	3	\$215.42	\$2,585.00		385.54	\$ 4,626.45
TOTAL PRIVATE FIRE REVENUE			\$3,159.00			\$ 5,654.59
<u>PUBLIC FIRE SERVICE</u>						
HYDRANTS	107	\$17.18	\$7,353.00		30.75	\$ 13,159.74
INCH FOOT	938038	\$0.03890	\$36,490.00		10.08962	\$ 65,305.58
TOTAL PUBLIC FIRE REVENUE			\$43,843.00			\$ 78,465.31
TOTAL REVENUES OTHER THAN FROM COMSUMPTION AND MISC. SERVICE REVENUE			224,081.00			\$ 401,037.48
MISCELLANOUS SERVICE REVENUE			1,502.00			\$ 1,502.00
CONSUMPTION REVENUE(Based on 198,872,000galx2.543/1000gal)			505,731.00	\$ 905,066.47		\$ 905,066.47
PROFORMA REVENUES UNDER PRESENT RATES			731,314.00			\$ 1,307,605.95

CMS
BESLOW
RPA
MOREAU
SLUTZKY
BELLO
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WJS



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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INITIAL DECISION

OAL DKT. NO. PUC 8422-05

AGENCY DKT. NO. WR05070634

**IN THE MATTER OF THE PETITION
OF PARKWAY WATER COMPANY
FOR AN INCREASE IN RATES AND
CHARGES FOR WATER SERVICE.**

Douglas R. Kleinfeld, Jr., Esq., for petitioner Parkway Water Company
(Kleinfeld & Kleinfeld, attorneys)

Alex Moreau, Deputy Attorney General, for respondent Board of Public Utilities
(Zulima V. Farber, Attorney General of New Jersey, attorney)

Susan E. McClure, Esq., for the Ratepayer Advocate (Seema M. Singh,
Ratepayer Advocate, attorney)

Record Closed: May 19, 2006

Decided: June 13, 2006

BEFORE **DOUGLAS H. HURD, ALJ**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Parkway Water Company, is a public water utility subject to the jurisdiction of the Board of Public Utilities ("BPU") and franchised to provide water service in a portion of the Township of Howell. On July 26, 2005, Petitioner filed a petition pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12 requesting an increase and revision of its rates and charges for water service in the amount of \$763,426. The

case was transmitted to the Office of Administrative Law, where it was filed on October 25, 2005. The parties in this case are the Petitioner, the Division of the Ratepayer Advocate ("RPA") and the Board of Public Utilities Staff ("Staff").

A public hearing was held on January 25, 2006, at Howell Township Middle School South. Testimony for the Petitioner and RPA was filed prior to the evidentiary hearings. Evidentiary hearings were held on March 22 and April 3, 2006. David Ern, Vice President and General Manager of Petitioner, in his testimony revised the proposed increase in revenue to \$763,513, or 104.18%, due to an increase in rates for purchased water that became effective April 1, 2006.

The parties submitted initial post-hearing briefs on May 5, 2006. The record closed on May 19, 2006, with the filing of post-hearing reply briefs.

BACKGROUND

Petitioner's proposed rate increase has been prompted, to a large extent, by the detection of unacceptable levels of radionuclides in certain of its wells. This has led to the Company purchasing water from the Brick Township Municipal Utilities Authority ("BTMUA"). The facts leading up to this decision are not in dispute and are provided for background below.

The Company's water supply prior to 2004 was derived from seven wells in the Kirkwood-Cohansey ("Cohansey") aquifer and one well in the Englishtown aquifer (Well 1A). Water samples were taken between 2001 and 2002 that revealed radium and/or gross alpha in certain Cohansey wells in excess of the maximum contaminant level. Well 1A had no radionuclide or gross alpha contamination and remains in full use at this time, along with Plant No. 1.

The Company was directed by the Department of Environmental Protection ("DEP") to resolve the issue of high radionuclide levels within one year of June 18, 2003. The Company complied with this directive and began purchasing water from

Brick and New Jersey-American on an interim basis in May 2004. The Company considered permanent alternatives and solicited proposals from New Jersey-American Water Company and Brick to provide adequate supplies of treated water on a continuing basis. New Jersey-American's offer had a lower cost, but contained unacceptable conditions; accordingly, the Company rejected the New Jersey-American offer.

The Company also investigated the possibility of treating its Cohansey well water to comply with the DEP directive. The Company has two separate water treatment plants (Plants 2 and 3) that treat water from the seven Cohansey Wells. These two treatment facilities were evaluated by the engineering firm of Hatch Mott MacDonald. Both the Company and Hatch Mott found the option of treating the water to be cost prohibitive. The Company concluded that the potential rate impact on customers too burdensome to make treatment a feasible solution to the problem. The RPA's expert witness, Howard Woods, P.E., agreed that water purchases were a far more cost effective option than treatment.

The Company continued purchasing water from Brick and New Jersey-American throughout 2004. On September 26, 2005, the Company entered into a contract to purchase all water needed to serve its customers (over and above the water produced from Well 1A) from Brick at a rate of \$3.48 per thousand gallons. On March 3, 2006, Brick gave notice that effective April 1, 2006, its rate for water sales to the Company would increase to \$3.64 per thousand gallons. The rate was formally adopted by Brick. The April 1, 2006, rate increase by Brick results in an additional cost for purchased water of \$28,000 annually. The Company's annual water purchase costs will increase from \$626,400 to \$655,200.

The RPA and BPU Staff agree with the course of action taken by the Company to address its radionuclide problem. There is no dispute that purchasing water from Brick is more prudent and cost-effective than blending water with Well 1A and/or treating the contaminated water. I, likewise, conclude that the Company acted

appropriately and in the ratepayer's interest in purchasing water from Brick to address the radionuclide problem.

ANALYSIS

The Company has the burden of proving by a preponderance of the evidence that it is entitled to a rate increase in this matter. The Company seeks a rate increase of \$763,513. The RPA believes the appropriate revenue requirement is \$579,025, while BPU staff support an increase in revenues of \$596,248. All figures are based on the April 1, 2006, rate adopted by Brick. Both RPA and Staff agree that Petitioner should be allowed to recover the full amount of the water purchase costs incurred in its agreement with Brick, including the April 1 rate increase

The following analysis only addresses items that the parties do not agree upon, as noted in their briefs. Items which are not disputed are hereby incorporated into this Initial Decision.

A. Rate of Return

The parties do not agree on two issues related to rate of return capital structure and return on equity.

1 Capital Structure

The Company proposes to use the actual capital structure as of December 31, 2005, the end of the test year, with 72.65% equity, 23.36% Co-Bank loan and 3.99% notes payable to developers. Andrea Crane, on behalf of RPA, testified that the Company's proposed structure is "inefficient" because it consists of too high a level of common equity. She recommends a hypothetical capital structure of 50% equity, 44.35% Co-Bank loan and 5.64% notes payable to developers. She notes that such a structure is consistent with the AUS Utility Report of February 2006.

Staff supports the use of the Company's proposed actual capital structure, rather than the RPA proposal. For the reasons set forth in the Staff's brief, I concur with Staff and the Company that the actual capital structure should be used. This is also consistent with the Company's last rate case in which the actual capital structure was used and approved by the Board.

2. Return on Equity¹

The Company proposes a 10.75% rate as reflected on Schedule S of P-8. Mr. Ern explained that 9.75% is the prevailing rate the Board has been allowing as an equity return for larger, Class A water utilities. He noted that since Parkway is a small utility with small earnings, and stock that is not publicly traded, an equity investment in the Company is riskier than a comparable investment in a larger utility having substantial earnings and a publicly traded stock. Mr. Ern also noted potential risks, such as the possibility that it might not recover all of its water purchase expenses.

Ms. Crane, for the RPA, recommends a rate on equity of 9.12%. She reached this result by performing two analyses: a CAPM (Capital Asset Pricing Model) and a DCF (Discounted Cash Flow) on a proxy group of 10 water companies tracked by the AUS Utility Report. Ms. Crane reached her result by giving 75% weight to the DCF estimate and 25% weight to the CAPM estimate.

Staff does not agree with the Company's 10.75% rate proposal because it is not supported by the evidence. Staff contends that the small size of the Company is a risk factor, but the lack of liquidity is not. Staff also disagrees with the RPA proposed rate. Staff contends, among other items, that the RPA calculation of the CAPM estimate is inaccurate. Staff recommends a rate of return on equity of 9.75%.

¹ The cost rates for the Company's debt are not in dispute.

agree with the Company's proposed 10.75% rate of return. The Company makes a compelling case regarding its risk factors, including its size, financial risk, limited growth potential and lack of liquidity. The heightened risk factor justifies a greater rate of return. The comparison to the companies used by Ms. Crane supports the Company's position of a higher rate. The Company is much smaller than the companies used by Ms. Crane in her comparison analysis. In addition, those companies are publicly traded and, accordingly, much more liquid. In addition, Staff notes that JCP&L was recently awarded a 9.75% rate of return on equity. Once again, however, JCP&L is a large, publicly traded corporation and less risky from an investor's perspective.

Mr. Ern's request for a 10.75% rate of return on equity is a judgment call, as he candidly admitted. In my opinion, this is a reasonable judgment and accurately reflects the heightened risk of an equity investment in the Company. The Company's overall rate of return should be 9.92%, which includes a 10.75% return on equity.

B Rate Base

1 Cohansey Wells and Facilities

Mr. Ern testified that the Company has not excluded any plant or well on the basis that they are no longer used and useful. The only area of disagreement among the parties on this issue is that the RPA and Staff contend that all seven of the Company's Cohansey Wells, the associated pumping and treatment equipment for those wells and the entire structure at Plant No. 2 should be removed because these facilities are no longer useful. The parties agree to the usefulness of all other facilities.

I agree with the adjustment to rate base recommended by the RPA and Staff. The last time the Company used any of its wells was September 2004, with most of them shut down in May 2004 due to the radionuclide issue. I agree with the expert testimony of Howard Woods, Jr., that there is simply no justification to maintain these wells. The Company has two interconnections with Brick and a third with New Jersey-

American. Each of these connections individually is capable of satisfying the maximum water needs of the Company's customers.

I disagree with the Company's position that the Cohansey Wells, particularly, Wells 5 and 8, should be retained for standby or other emergency use. Such a use will not be necessary since the Company has the three existing interconnections noted above, each of which individually can satisfy the water needs of the customers.

2. Contributions in Aid of Construction ("CIAC")

As noted above, the wells and facilities associated with the Cohansey aquifer are no longer used and useful and should be removed from the rate base. Removing these items from the rate base means that the corresponding CIAC used to finance their construction should also be removed. The RPA and Staff agree that a total of \$328,428 of CIAC be removed from the rate base. The Company also agrees that in the event such items are removed from the rate base that there needs to be an offsetting adjustment to CIAC. I concur with this recommendation.

3. Accumulated Depreciation

Like the CIAC, the removal of the Cohansey Wells and related facilities justifies a removal of accumulated depreciation from the Company's rate base. The RPA and Staff agree that the \$254,936 in accumulated depreciation should be eliminated from the Company's depreciation reserve. I concur with this recommendation.

4. Post-Test Year Additions

The Company is requesting \$12,000 in post-test year additions. The RPA recommends eliminating such post-test year additions because they are not supported by expert testimony or other documentation and, as such, are not "known and measurable". Staff recommends including the post-test year additions because they were substantiated in the evidence presented at the hearing. Staff suggests that to

address the RPA's concerns that the Company be required to provide an affidavit from an officer confirming the in-service date and costs for each project.

The Company and Staff's position are reasonable and consistent with the "known and measurable" standard. I also agree with Staff's recommendation that the Company provide an affidavit as suggested above.

5. Working Capital

The Company seeks a working capital allowance based on $1/5$ of its operating and maintenance expenses. Mr. Ern acknowledges that the Board typically uses a $1/8$ formula for working capital, but he pointed to exigent circumstances to justify a $1/5$ formula. Mr. Ern notes that the Company's revenues are collected quarterly but its largest monthly expenses is water purchase costs that are payable monthly. The lag between revenue collection and payment of expenses, according to Mr. Ern, requires that the Company have a working capital allowance based on a $1/5$ formula to pay its bills timely and remain financially viable. The Company did not do a lead/lag study, citing the high costs associated with such a study.

The RPA recommends that the Company's cash working capital requirement be denied. Ms. Crane, on behalf of the RPA, contends that the Company should first do a lead/lag study to accurately measure its needed cash working capital. She also contends that such studies can be more informal and are not that burdensome. The RPA also questions whether the $1/5$ claim has any resemblance to any actual cash working capital requirements.

Staff recommends a $1/8$ formula, and cites a similar case in which such a formula was approved by the Board. Staff notes that lead/lag studies are not always needed and that the $1/8$ method is a reasonable alternative to having such formal studies conducted. Staff notes that the Company has not demonstrated a need for a $1/5$ formula.

I concur with Staff on this issue and agree that a 1/8 method is reasonable for the reasons cited above.

C. Rate Case Costs

The Company requested \$75,000 related to rate case expenses amortized over a three-year period. Mr. Ern at the hearing testified that rate case expenses, at the conclusion of this matter, may exceed \$90,000. Staff and the RPA both recommend that total expenses be cut in half to effectuate a 50-50 sharing between ratepayers and shareholders and then amortized. Staff recommends a four-year amortization and the RPA a three-year period.

I agree with Staff and the RPA that a 50-50 sharing of expenses is appropriate and consistent with Board policy. I agree with Staff that it should be amortized over a four-year period since the Company's last rate increase was approved in May 1998 and the Company has filed the present petition primarily to recover purchased water costs. I also agree that the Company should be required to submit actual rate case costs at the conclusion of the hearing.

CONCLUSION

For the foregoing reasons, the following is hereby **ORDERED**:

- 1 An appropriate overall cost of capital for the Company should be based upon the Company's actual capital structure;
- 2 The Company's overall rate of return should be 9.92%, which includes a 10.75% return on equity;
- 3 All seven of the Company's Cohansey Wells, the associated pumping and treatment equipment for those wells and the entire structure at Plant No. 2 should be removed from the rate base because these facilities are no longer useful;

4. The Company is allowed \$12,000 in post-test year additions and shall provide an affidavit as described above;
5. The Company shall use a working capital allowance based on 1/8 of its operating and maintenance expenses; and
6. A 50-50 sharing of rate case expenses is appropriate and should be amortized over a four-year period.

The foregoing Order addresses areas where the parties are in disagreement. From the briefs submitted, it appears that the parties are in agreement on the remaining areas of the rate case. Those non-disputed areas of the rate case are hereby incorporated into this Initial Decision as the Company has satisfied its burden of proof.

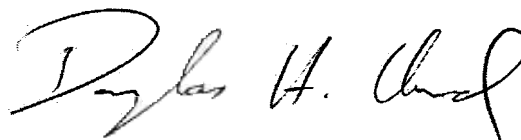
In conclusion, the Company is entitled to an overall increase in revenue over present rates that is consistent with the Order set forth above.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 2 Gateway Center, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

JUNE 13, 2006



DATE

DOUGLAS H. HURD, ALJ

E-mail Receipt of Initial Decision Confirmed by the Board of Public Utilities on:

DATE

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

/lam

WITNESSES

For Petitioner:

David Ern, Vice President and General Manager (pre-filed testimony admitted as PT-1)

Carol Walcyk, P.E. (pre-filed testimony admitted as PT-2)

For Ratepayer Advocate:

Andrea Crane, Vice-President of The Columbia Group (pre-filed testimony admitted as RT-1)

Howard Woods Jr., P.E. (pre-filed testimony admitted as RT-2)

EXHIBITS²

For Petitioner:

Affidavit of Publication

Letter from American Water, dated June 30, 2005

Letter on behalf of BTMUA, dated June 30, 2005

P-4 Letter from DEP, dated June 18, 2003

Hatch Mott MacDonald Report

Petitioner's Financial Information

ProForma Statement of Revenue and Expenses

Amendments to P-7

P-9 RAR-A-30

ST-10

P-11 RAR-A-28

P-12 BPU Order

P-13 BTMUA Resolution

P-14 Water Allocation Permit

P-15 RAR-E-33

CIAC and Advances from Developers

PT-1 Pre-filed Testimony of David Ern with the following attachments:

PT-1(a) Water Sale Agreement

PT-1(b) BTMUA Resolution

PT-1(c) Letter from DEP, dated November 10, 2005

² The post-hearing briefs contained some updated exhibits to the exhibits admitted during the hearings.

PT-1(d) Letter from DEP, dated April 25, 2005

PT-1(e) Letter from BTMUA, dated March 3, 2006

Pre-Filed Testimony of Carol Walczyk, including resume and Hatch Mott MacDonald Report, dated September 2005

For Ratepayer Advocate:

Map Output – Parkway Water Co. Wells

Pre-Filed Direct Testimony of Andrea Crane with attachments

RT-2 Pre-Filed Direct Testimony of Howard Woods with attachments

For Staff:

S-1 Annual Report of Company for the year ended December 31, 2004

RAR-E-12 and 15

Letter from Company dated January 15, 2004